



REPUBLIC OF SOUTH AFRICA
KWAZULU-NATAL HIGH COURTS

THE HONOURABLE ACTING JUDGE PRESIDENT MR JUSTICE M I MADONDO

10 June 2022

Practice Directive 40

Managing court processes post lockdown

Notwithstanding the end of the (frequently extended) State of Disaster, we are all too well aware of the fact that the Covid 19 pandemic is far from over and that we, for some time to come, will have to adjust to a longer period of living with the pandemic. To that end the following Practice Directive is an attempt to manage court processes in the long term. These directives recognise that our courtrooms in both Pietermaritzburg and Durban are confined spaces, and that, although at times the air-conditioning would appear to be functioning, whether the courtrooms are adequately ventilated spaces is uncertain. These directives will take immediate effect.

40.1 In all matters, both civil and criminal, the presiding judge, in her or his sole discretion, shall manage how, and in what manner, the proceedings before him or her are to be conducted.

40.2 Given that courtrooms are indoor public spaces:

- (a) Everyone in the courtroom, shall be required to wear a mask or other appropriate face covering, ensuring that it covers both the nose and the mouth. The presiding judge shall ensure that this requirement is observed and maintained throughout the proceedings.
- (b) The presiding judge shall determine the number of persons (which

includes the number of legal representatives) to be accommodated in the particular courtroom, having regard to the space and facilities available in such courtroom, provided that, in ideally ventilated courtrooms the total number of persons shall not exceed 50% of the ordinary capacity of such courtroom.

- (c) Appropriate social distancing shall be enforced.

40.3 In all appeals, while an in person oral hearing remains the preferred method of hearing:

- (a) The judges constituting the appeal panel may, in terms of section 19 of the Superior Courts Act, make a determination that the appeal be disposed of without an oral hearing, but before finally doing so, the views of the parties shall first be solicited.
- (b) The judges constituting the appeal panel may, in their sole discretion, but after soliciting the views of the parties, convene a hearing via video conferencing or by any other appropriate electronic means.

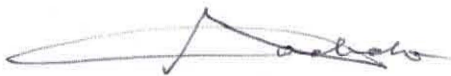
40.4 In all opposed motions:

- (a) Parties are to ensure that Practice Directive 9.4 is strictly complied with.
- (b) In all opposed motions, including applications in terms of Uniform Rule 43, the parties shall, not later than three clear days prior to the hearing, deliver a joint statement setting out in clear and concise terms the issues in dispute and the issues that the presiding judge will be required to rule on.
- (c) Although an oral hearing remains the preferred method of hearing, the presiding judge may, if the parties agree, elect to have the matter decided on the papers without the need for an oral hearing, and in such circumstances may call for additional written submissions.
- (d) While an in person oral hearing remains the preferred method of hearing the presiding judge may, in his or her sole discretion, but after soliciting

the views of the parties, convene a hearing via video conferencing or by any other appropriate electronic means.

40.5 In all unopposed divorces conducted in the motion court, not less than three clear days prior to the hearing a separate indexed bundle of documents (in addition to the indexed pleadings and without a filing notice) shall be delivered, with the first document to be an affidavit deposed to by the intended witness (who will ordinarily be the plaintiff) in which he or she identifies and confirms the correctness of the following documents (including identifying signatures where relevant) which are to be annexed to that affidavit:

- (a) The original marriage certificate or the original certificate of union; and
- (b) The original settlement agreement (or other agreement), if it is requirement that such be lodged with the court.



Acting Judge President
Mr Justice M I Madondo
HIGH COURT OF SA: KZN